



February 27, 2001

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## HOUSE BILL No. 1277

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DIGEST OF HB 1277 (Updated February 26, 2001 9:48 PM - DI 105)

**Citations Affected:** IC 15-9; noncode.

**Synopsis:** Regulation of pet stores. Establishes the regulation of pet stores. Defines "pet store". Prohibits a person from operating a pet store unless the person has been issued a license to operate a pet store. Authorizes the Indiana state board of animal health to administer and enforce this law. Allows the board to investigate pet stores for compliance with this law. States that a pet store operator must do the following: (1) Maintain sanitary conditions of the premises. (2) Insure proper ventilation. (3) Provide adequate nutrition for all animals under the pet store operator's control. (4) Provide humane care and treatment of all animals under the pet store operator's control. (5) Take reasonable care to prevent disease in animals that are released for sale, trade, or adoption. (6) Establish a relationship with a veterinarian to provide routine veterinary care and advice concerning the animals under the control of the pet store operator. Makes a license issued under this law valid for two years unless revoked. States the terms for renewal of a license. Authorizes the board to use various enforcement measures to administer this law.

**Effective:** July 1, 2001.

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**Cheney, Ayres, Kuzman, Becker,  
Budak, Foley**

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January 9, 2001, read first time and referred to Committee on Agriculture, Natural Resources and Rural Development.  
February 26, 2001, amended, reported — Do Pass.

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February 27, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## HOUSE BILL No. 1277

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 15-9 IS ADDED TO THE INDIANA CODE AS A  
2 **NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,**  
3 **2001]:**

### **ARTICLE 9. PET STORE REGULATION**

#### **Chapter 1. Definitions**

4 **Sec. 1. The definitions in this chapter apply throughout this**  
5 **article.**

6 **Sec. 2. "Animal distributor" means a person who buys and sells**  
7 **animals at wholesale, but does not sell animals as pets directly to**  
8 **individual consumers.**

9 **Sec. 3. "Board" means the Indiana state board of animal health**  
10 **established by IC 15-2.1-3-1.**

11 **Sec. 4. (a) "Pet store" means a place where:**

12 **(1) a dog;**

13 **(2) a cat;**

14 **(3) a rabbit;**

15 **(4) a rodent;**

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1 (5) a nonhuman primate;  
 2 (6) a bird;  
 3 (7) any other vertebrate animal; or  
 4 (8) any other animal customarily obtained as a pet in Indiana;  
 5 is bought, sold, offered for sale, exchanged, or offered for adoption.

6 (b) The term does not include the following:

7 (1) A store that sells or exchanges less than six (6) animals  
 8 during a twelve (12) month period.

9 (2) A person that sells only the animals that the person has  
 10 produced and raised.

11 (3) A veterinary hospital or clinic operated by a veterinarian  
 12 licensed under IC 15-5-1.1.

13 (4) An animal shelter.

14 (5) The sale of livestock (as defined in IC 15-2.1-2-27).

15 (6) The sale of poultry by a commercial breeder or  
 16 distributor.

17 (7) The sale of an animal by:

18 (A) an animal distributor;

19 (B) a research facility;

20 (C) a circus; or

21 (D) a publicly or privately owned zoological park, petting  
 22 zoo, or other facility;

23 that is licensed or registered by the United States Department  
 24 of Agriculture under the federal Animal Welfare Act of 1970,  
 25 7 U.S.C. 2131, et seq., as amended.

## 26 Chapter 2. Duties of the Board

27 Sec. 1. The board has all powers necessary to fulfill its duties as  
 28 prescribed in this article and may adopt rules under IC 4-22-2 that  
 29 prescribe standards for pet stores that when met will satisfy  
 30 IC 15-9-5-1 and that are otherwise necessary to carry out this  
 31 article.

32 Sec. 2. The board may do the following:

33 (1) Administer and enforce this article.

34 (2) Issue, suspend, and revoke licenses in accordance with this  
 35 article.

36 (3) Subject to IC 15-9-3, investigate complaints concerning  
 37 licensees or persons the board has reason to believe should be  
 38 licensees, including complaints regarding the failure to  
 39 comply with this article or the rules, and to take appropriate  
 40 action under IC 15-9-8.

41 (4) Bring actions, in the name of the state of Indiana, in an  
 42 appropriate court to enforce compliance with this article or

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the rules by restraining order or injunction.

(5) Hold public hearings under IC 15-2.1-19 on any matters for which a hearing is required under this article and to have all powers granted in IC 4-21.5.

(6) Establish and fix the fees for the licensing and renewal of a license under this article.

(7) Prescribe the application forms to be furnished to all persons seeking to be licensed under this article.

(8) Prescribe the form and design of the license to be issued under this article.

(9) Conduct hearings, keep records of proceedings, and do all things necessary to properly administer and enforce this article.

(10) Subpoena and bring before the board any person in Indiana and take testimony in the same manner as prescribed by law in civil proceedings in Indiana courts.

(11) Hire the necessary staff required to carry out this article.

### Chapter 3. General Provisions

Sec. 1. A person may not operate a pet store unless the person has obtained a license to operate a pet store under this article.

Sec. 2. (a) A person who wishes to obtain a license issued under this article must complete a license application prescribed by the board and file the application with the board.

(b) An application for a license under this article must be completed in the manner determined by the board.

Sec. 3. The board may not issue a license to operate a pet store until the board has inspected the premises for compliance under this article.

Sec. 4. (a) A license issued under this article expires two (2) years from the date of issuance or on a common biennial renewal date for all licenses that is established by the board.

(b) The fee for a license issued under this article is two hundred dollars (\$200). However, the fee for a license issued in the second year of a licensing cycle is one hundred dollars (\$100).

(c) The board shall accept the following forms of payment of fees:

(1) Cash.

(2) A draft.

(3) A money order.

(4) A cashier's check.

(5) A certified or other personal check.

(d) If a board receives an uncertified personal check for the

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1 payment of a fee and if the check does not clear the bank, the board  
2 may void the license for which the check was received.

3 (e) Unless designated by rule, a fee is not refundable.

4 Sec. 5. (a) The pet store licensing fund is established for the  
5 purpose of implementing the provisions of this article. The fund  
6 shall be administered by the board.

7 (b) The expenses of administering the fund shall be paid from  
8 money in the fund.

9 (c) The fund consists of license fees and civil penalties collected  
10 under this article.

11 (d) The treasurer of the state shall invest the money in the fund  
12 not currently needed to meet the obligations of the fund in the same  
13 manner as other public money may be invested.

14 (e) Money in the fund at the end of a state fiscal year does not  
15 revert to the state general fund.

16 Sec. 6. The board or its employees may inspect any pet store in  
17 Indiana and may enter upon any public or private property where  
18 any pet store is located during the store's regular business hours  
19 for the following purposes:

20 (1) Inspecting the property.

21 (2) Examining the animals.

22 (3) Conducting tests in regard to the presence of an infectious,  
23 a contagious, or a communicable disease of the animals and  
24 the possible cause and sources of any disease.

25 (4) Performing any other function authorized by this article.

26 Sec. 7. The board shall investigate any:

27 (1) pet store;

28 (2) entity that the board considers may be operating as a pet  
29 store without a license;

30 (3) applicant for a license under this article; or

31 (4) licensee;

32 upon a written, verified complaint by any person of a violation  
33 under this article that the board considers to have merit.

34 Sec. 8. (a) The board may order a licensee under this article to  
35 file with the board information concerning the business conduct of  
36 the licensee and the practices and management of the business of  
37 the licensee.

38 (b) The board may require that the reports and answers under  
39 subsection (a) be made under oath and filed within a reasonable  
40 period of time if the requirements are considered essential by the  
41 board.

42 Chapter 4. Renewal of a License



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1       **Sec. 1. (a) A person may renew a license by:**

2           **(1) completing a renewal application prescribed by the board;**

3           **and**

4           **(2) paying a renewal fee not later than the expiration date of**  
 5           **the license.**

6           **(b) If a person fails to timely submit a renewal application and**  
 7           **pay a renewal fee, the board shall send the person notification of**  
 8           **the delinquent application and fee. If the board does not receive the**  
 9           **renewal application and fee within fifteen (15) days after the date**  
 10          **notice was mailed to the person, the person's license becomes**  
 11          **invalid without any further action being taken by the board.**

12          **Sec. 2. (a) The board may renew a license if the license holder**  
 13          **pays the renewal fee set by the board to renew the license before**  
 14          **the license expires.**

15          **(b) Notwithstanding subsection (a), the board may refuse to**  
 16          **renew the license for the reasons set forth in IC 15-9-6.**

17          **Chapter 5. Conduct of a Pet Store Operator**

18          **Sec. 1. The board shall adopt standards that require a pet store**  
 19          **operator to do the following:**

20           **(1) Maintain sanitary conditions of the premises.**

21           **(2) Insure proper ventilation.**

22           **(3) Provide adequate nutrition for all animals under the pet**  
 23           **store operator's control.**

24           **(4) Provide humane care and treatment of all animals under**  
 25           **the pet store operator's control.**

26           **(5) Take reasonable care to prevent disease in animals that**  
 27           **are released for sale, trade, or adoption.**

28           **(6) Establish a relationship with at least one (1) veterinarian**  
 29           **to provide routine veterinary care and advice concerning the**  
 30           **animals under the control of the pet store operator.**

31          **Sec. 2. A person who operates a pet store may not import or**  
 32          **cause to be imported into Indiana, or offer for sale or resale, a dog**  
 33          **or cat less than eight (8) weeks of age.**

34          **Sec. 3. (a) A pet store operator shall provide to the purchaser**  
 35          **the following information for every dog or cat available for sale,**  
 36          **resale, trade, or adoption:**

37           **(1) The age and sex of the animal.**

38           **(2) The breed of the animal.**

39           **(3) A record of vaccination and veterinary care and**  
 40           **treatment.**

41           **(4) A record of surgical sterilization or lack of surgical**  
 42           **sterilization.**



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(b) A pet store operation shall keep records of the information required in subsection (a) and a record of the source of each animal that is purchased and sold for at least two (2) years after the date the animal is sold.

(c) The pet store operator shall allow the board access to this information upon request during normal business hours.

Sec. 4. A person who holds a license issued under this article shall display the license in a place clearly visible to any customer.

#### Chapter 6. Denial, Suspension, or Revocation of a License

Sec. 1. The board may refuse to issue or renew, suspend, or revoke a license for the following reasons:

(1) A material misstatement in the application for original license or in the application for renewal of a license under this article.

(2) A violation of this article or any rule adopted under this article.

(3) Aiding or abetting another person in the violation of this article or of any rule adopted under this article.

(4) Making a substantial misrepresentation or false promises of a character likely to influence, persuade, or induce in connection with the business of a licensee under this article.

(5) A conviction of a misdemeanor or felony under IC 35-46-3.

Sec. 2. (a) Upon revocation of a license, the licensee shall surrender the license to the board.

(b) If the licensee fails to surrender the license under subsection (a), the board shall seize, or cause to be seized, the license.

Sec. 3. (a) The board may:

(1) deny an application for a license or renewal of a license;

(2) suspend a license;

(3) revoke a license; or

(4) issue a fine under IC 15-9-8-3;

by issuing a written notice to the applicant or licensee, stating the alleged violation, the board's action, and the opportunity for a hearing under IC 4-21.5.

(b) If the applicant or licensee does not request in writing a hearing before the board within fifteen (15) days of receiving notice under subsection (a), the right to a hearing before the board is waived and the notice shall become a final order under IC 4-21.5.

(c) If a hearing is requested under this section, the hearing shall be held in compliance with IC 4-21.5.

Sec. 4. The board may reinstate a license that has been suspended under this chapter if the licensee demonstrates to the

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board that the applicant is able to operate with reasonable skill, safety, and competency to the public. As a condition of reinstatement, the board may impose disciplinary or corrective measures designed to ensure compliance with this article.

#### **Chapter 7. Operating a Pet Store Without a License**

**Sec. 1. (a)** If the board determines that a person who is not licensed or exempt under this article is engaged in activities that require a license, the board may issue a cease and desist order and impose a fine under IC 15-9-8-3 by issuing a written notice to the alleged violator, stating the alleged violation, the board's action, and the opportunity for a hearing under IC 4-21.5.

**(b)** If the alleged violator does not request in writing a hearing before the board within fifteen (15) days of receiving the notice, the right to a hearing before the board is waived, and the notice shall become a final order under IC 4-21.5.

**(c)** If a hearing is requested under this section, the hearing shall be conducted in compliance with IC 4-21.5.

**(d) The:**

**(1)** attorney general;

**(2)** board; or

**(3)** prosecuting attorney of any county where a violation under this chapter occurs;

may file an action in the name of the state for an injunction or other order to enforce the board's order and the provisions of this article.

**(e)** A cease and desist order issued under this section is enforceable in the circuit courts of Indiana.

#### **Chapter 8. Enforcement**

**Sec. 1.** The board is responsible for the administration and enforcement of this article. The board may delegate its duties to the state veterinarian except as provided in IC 15-2.1-3-13.5.

**Sec. 2.** IC 15-2.1-20-1 and IC 15-2.1-20-2 apply to this article.

**Sec. 3. (a)** If a person violates this article or any rule adopted by the board under this article, the board may do any of the following:

**(1)** Suspend the person's license.

**(2)** Revoke the person's license.

**(3)** Prohibit renewal of a license.

**(4)** Impose an administrative fine of not more than one thousand dollars (\$1,000) for each violation.

**(5)** Obtain an injunction against a person who is engaging in a method, act, or practice that violates this article.

**(6)** Issue an order of compliance directing the person to take





specified actions in order to comply with this article.

(b) The board may order a pet store closed to the public for up to seventy-two (72) hours to correct deficiencies necessary to meet the requirements of this article. If a violation is not corrected, the board may suspend or revoke the operator's license.

Sec. 4. A person who knowingly or intentionally violates this article or any rule of the board adopted under this article commits a Class B misdemeanor.

Sec. 5. If the board has reason to believe that a person may have violated any part of IC 35-46-3, the board may refer the matter to the appropriate law enforcement agency for action under IC 35-46-3.

Sec. 6. (a) A unit (as defined in IC 36-1-2-23) may adopt an ordinance concerning regulation of pet stores that includes more stringent or detailed requirements than those set forth in this article.

(b) A unit may not enforce an ordinance concerning the regulation of pet stores that contains less stringent or detailed requirements than those set forth in this article.

(c) A unit may not impose or collect a licensing or registration fee for the regulation of pet stores.

SECTION 2. [EFFECTIVE JULY 1, 2001] (a) Notwithstanding IC 15-9-3, as added by this act, the operator of a pet store that is operating before July 1, 2001, may continue to operate the pet store without a license issued under IC 15-9-3 pending the processing of an application for a license under this SECTION.

(b) The operator of a pet store described in subsection (a) may submit to the Indiana state board of animal health an application for a license to operate a pet store under IC 15-9-3. The operator must submit the application before September 1, 2001. The Indiana state board of animal health may allow an operator to submit an application on or after September 1, 2001, for good cause.

(c) The operator of a pet store described in subsection (a) shall cease operating the pet store if:

(1) the operator fails to submit an application within the time set forth in subsection (b); or

(2) The Indiana state board of animal health notifies the operator that the board has rejected an application submitted by the operator under this SECTION.

(d) This SECTION expires January 1, 2002.



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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture, Natural Resources and Rural Development, to which was referred House Bill 1277, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between lines 7 and 8 begin a new paragraph and insert:

**"Sec. 2. "Animal distributor" means a person who buys and sells animals at wholesale, but does not sell animals as pets directly to individual consumers."**

Page 1, line 8, delete "2" and insert "3".

Page 1, line 10, delete "3" and insert "4".

Page 1, delete line 16.

Page 1, line 17, delete "(7)" and insert "(6)".

Page 2, line 1, delete "(8)" and insert "(7)".

Page 2, line 2, delete "(9)" and insert "(8)".

Page 2, line 19, delete "park or" and insert "park,".

Page 2, line 20, delete "zoo;" and insert "zoo, or other facility".

Page 4, line 14, delete "agent" and insert "employees".

Page 5, between lines 3 and 4 begin a new paragraph and insert:

**"(b) If a person fails to timely submit a renewal application and pay a renewal fee, the board shall send the person notification of the delinquent application and fee. If the board does not receive the renewal application and fee within fifteen (15) days after the date notice was mailed to the person, the person's license becomes invalid without any further action being taken by the board."**

Page 5, delete lines 4 through 6.

Page 5, line 13, delete "A pet store operator shall" and insert "The board shall adopt standards that require a pet store operator to".

Page 5, line 31, after "age" delete "," and insert "and".

Page 5, line 31, delete ", and weight".

Page 8, after line 15, begin a new paragraph and insert:

**"SECTION 2. [EFFECTIVE JULY 1, 2001] (a) Notwithstanding IC 15-9-3, as added by this act, the operator of a pet store that is operating before July 1, 2001, may continue to operate the pet store without a license issued under IC 15-9-3 pending the processing of an application for a license under this SECTION.**

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(1) the operator fails to submit an application within the time set forth in subsection (b); or

(2) The Indiana state board of animal health notifies the operator that the board has rejected an application submitted by the operator under this SECTION.

(d) This SECTION expires January 1, 2002.".

and when so amended that said bill do pass.

(Reference is to HB 1277 as introduced.)

LYTLE, Chair

Committee Vote: yeas 11, nays 0.

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